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Attorneys for Plaintiff,
DONNA CORBELLO

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DONNA CORBELLO, an individual,

Plaintiff,

VS.

THOMAS GAETANO DEVITO, an individual, *et al.*,

Defendants.

Case No. 2:08-cv-00867-RCJ-PAL

**FOR LEAVE
TO FILE UNDER SEAL CERTAIN
EXHIBITS TO HER RESPONSE TO
DEFENDANT JERSEY BOYS
RECORDS LIMITED
PARTNERSHIP'S MOTION FOR
SUMMARY JUDGMENT AND CROSS-
MOTION TO COMPEL
JURISDICTIONAL DISCOVERY**

Plaintiff Donna Corbello, by her attorneys, and pursuant to the *Stipulated Protective Order* (Doc. 94) entered into by the parties, and the Court's *Protective Order Governing*

1 *Confidentiality of Documents* entered on January 5, 2009 (“Order Regarding Sealing
 2 Requirements”) (Doc. 95), herewith requests leave to file certain documents under seal as
 3 exhibits to Plaintiff’s Response to Jersey Boys Records Limited Partnership’s Motion for
 4 Summary Judgment and Cross-Motion to Compel Responses to Jurisdictional Discovery
 5 (“*Response: Cross-Motion to Compel*”).

6 **MEMORANDUM OF POINTS AND AUTHORITIES**

7 Pursuant to her obligations under the *Stipulated Protective Order* and *Order Regarding*
 8 *Sealing Requirements*, Plaintiff seeks an order permitting her to file the following documents
 9 under seal, which were produced by Defendants Frankie Valli, Robert J. Gaudio, Marshall
 10 Brickman, Eric S. Elice, DSHT, Inc., Dodger Theatricals, Inc., and/or JB Viva Vegas, LP (the
 11 “New Defendants”), and/or by third party BASE Las Vegas Jersey Boys, and marked
 12 “CONFIDENTIAL” and “HIGHLY CONFIDENTIAL” thereby, which she intends to attach as
 13 exhibits to her *Response: Cross-Motion to Compel*:

- 14 • JB-0025278 through JB-0025282 consisting of financial information produced by
 15 New Defendants.
- 16 • BASE 00001 through BASE 00030 consisting of the letter agreement between
 17 BASE Las Vegas Jersey Boys (BASE Entertainment) and Jersey Boys Broadway
 18 LP.

19 Plaintiff further seeks an order permitting her to file the following court documents under
 20 seal which support her *Response: Cross-Motion to Compel* but contain, in part, information
 21 marked “Highly Confidential” by third party BASE Entertainment:

- 22 • Selected text on page 5 of *Plaintiff’s Response to Jersey Boys Records Limited*
 23 *Partnership’s Motion for Summary Judgment and Plaintiff’s Cross-Motion to*
 24 *Compel Responses to Jurisdictional Discovery* which restates information
 25 contained in the letter agreement between BASE Entertainment and Jersey Boys
 26 Broadway LP.
- 27 • Selected text in Paragraph 11 of *Rule 56(D) Declaration of John L. Krieger in*
 28 *Support of Plaintiff’s Response to Defendant Jersey Boys Records Limited*

1 *Partnership's Motion for Summary Judgment and Plaintiff's Cross-Motion to*
 2 *Compel Jurisdictional Discovery* which restates information contained in the
 3 letter agreement between BASE Entertainment and Jersey Boys Broadway LP.

4 **I. ARGUMENT**

5 There is an exception to the normal presumption of access to judicial records, for “sealed
 6 discovery document[s] [attached] to a non-dispositive motion,” such that “the usual presumption
 7 of the public’s right of access is rebutted.” *Kamakana v. City & County of Honolulu*, 447 F.3d
 8 1172, 1179-1180 (9th Cir. 2006) (citing *Phillips v. General Motors Corp.*, 307 F.3d 1206, 1213
 9 (9th Cir. 2002)). The public has less of a need for access to court records attached only to non-
 10 dispositive motions because those documents are often ““unrelated, or only tangentially related,
 11 to the underlying cause of action.”” *Id.* (quoting *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33,
 12 104 S. Ct. 2199, 81 L. Ed. 2d 17 (1984)). Moreover, “public policies that support the right of
 13 access to dispositive motions, and related materials, do not apply with equal force to non-
 14 dispositive materials.” *Id.* (citing *Phillips*, 307 F.3d at 1213). Finally, when a district court
 15 grants a protective order to seal documents during discovery, “it already has determined that
 16 ‘good cause’ exists to protect this information from being disclosed to the public by balancing
 17 the needs for discovery against the need for confidentiality.” *Id.* Accordingly, “good cause”
 18 exists for the filing of the foregoing documents under seal.

19 Pursuant to the *Stipulated Protective Order* herein, Plaintiff has an obligation to maintain
 20 the confidentiality of any document marked “CONFIDENTIAL” or “HIGHLY
 21 CONFIDENTIAL” by an opposing party, and the documents identified above were so marked by
 22 the New Defendants and by BASE Las Vegas Jersey Boys. Accordingly, Plaintiff may not file
 23 the documents with the Court without obtaining an Order and/or filing them under seal.
 24 Whereas, Plaintiff’s *Response: Cross-Motion to Compel* is not a dispositive motion, the filing of
 25 these documents under seal falls within the exception to the general presumption of public access
 26 carved out by the courts of this Circuit for documents attached to non-dispositive motions.
 27 Accordingly, leave to file the subject documents under seal should be granted.

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1 II. CONCLUSION

2 IN VIEW OF THE ABOVE, Plaintiff respectfully requests that her present motion be
3 granted.

4 Dated: October 11, 2011

5 RESPECTFULLY SUBMITTED:

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/s/ John L. Krieger

8 Gregory H. Guillot

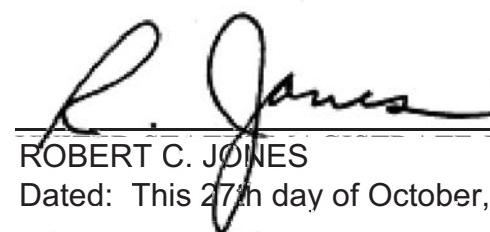
9 George L. Paul

10 John L. Krieger

11 Robert H. McKirgan

12 *Attorneys for Plaintiff, Donna Corbello*

13 IT IS SO ORDERED:

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15 ROBERT C. JONES

16 Dated: This 27th day of October, 2011.

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CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b), I certify that on October 11, 2011, I electronically filed the foregoing motion and this certificate of service with the clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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